

## APPENDIX B Maui County Comments to Petition

**DEPARTMENT OF WATER SUPPLY****COUNTY OF MAUI**

P.O. BOX 1109

WAILUKU, MAUI, HAWAII 96793-6109

TELEPHONE (808) 270-7816 • FAX (808) 270-7833 • [www.mauiwater.org](http://www.mauiwater.org)

September 10, 2001

Ms. Linnel T. Nishioka, Deputy Director  
State of Hawaii  
Department of Land & Natural Resources  
Commission on Water Resource Management  
P. O. Box 621  
Honolulu, Hawaii 96809

Dear Ms. Nishioka:

Subject: Petition for Ground Water Management Designation Action on Iao Aquifer System

We feel it is not necessary at this time to designate Iao aquifer as a water management area. The following are reasons why we feel designation is not necessary.

1. The State Constitution requires a trust responsibility from all its political subdivisions. We take this responsibility very strongly and do all that can be done, given our economic situation to protect the aquifer for future generations. Drilling of another monitor well south of Iao Stream, which can be done without designation, would be welcomed assistance from the CWRM.
2. We continue to monitor the water and chloride levels in conjunction with CWRM and USGS. These results are made available to the general public so they also can monitor what is going on.
3. We realize that there has been a fairly lengthy time of low rainfall during which water levels have responded accordingly. Rainfall patterns should not translate to a need for designation.
4. The Waiehu Heights well that has increased chloride levels due to a deeper open hole and the easier transmission of higher chloride water into the pumped water. This isolated case can be managed by running the low chloride well more of the time and should not be used as a reason for designation.

*"By Water All Things Find Life"*

Ms. Linnel T. Nishioka

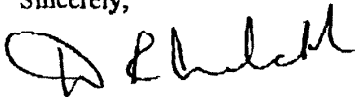
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September 10, 2001

5. The Mokuhanu wells do not exceed the 200 ppm level for the combined output of the wells and we are no longer pumping the middle well which has resulted in lower chlorides for the pump station.
6. The perception that the Central Maui Joint Venture agreement expired is incorrect. The agreement, however, does allow for the disbanding of the CMJV group after December 1999. Nothing prevents them from reorganizing and continuing its organization. We continue to operate the CMJV wells as called for in the agreement. Previous CWRM administrators said the state would not get involved in allocations for individual wells. Bulk allocations would not have any effect on the agreement as we would still need to resolve the matter ourselves.
7. We intend to continue exploration to the north of Waihee Stream toward Kahakuloa and have been successful in providing 1000-1200 gpd from these wells. We expect to develop another two wells in the next two - three years.
8. The results of our aquifer test show an 83-day recovery time for the aquifer water levels to reach agreement with the 1 to 40 density ratio. The 17.5 foot head that is showing in the Waikapu well, which is part of Iao aquifer, would then match the midpoint of -699 feet. The theory that the midpoint just has not had time to rise is somewhat misleading given the test information.
9. We now have a rule in place that requires mandatory cutbacks should water quality deteriorate in the aquifer.
10. We are still the primary water purveyor using Iao aquifer and as such are able to do what is necessary to protect the aquifer to avoid any future deterioration of water quality.
11. The Board will be convening a special review of alternative sources for Iao.

We look forward to working with you to allay any community fears that the aquifer is being harmed when it is not. Thank you for your concern in this matter.

Sincerely,



David Craddick, Director  
DC/jaw

Council Chair  
Patrick S. Kawano

Council Vice-Chair  
Dain P. Kane

Presiding Officer Pro Tempore  
Charmaine Tavares

Council Members  
Alan M. Arakawa  
Robert Carroll  
G. Riki Hokama  
Jo Anne Johnson  
Michael J. Molina  
Wayne K. Nishiki



**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793

December 3, 2001

Director of Council Services  
Ken R. Fukuoka

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STATE WATER  
COMMISSION

Ms. Linnel T. Nishioka, Deputy Director  
Department of Land and Natural Resources  
Commission on Water Resource Management  
State of Hawai'i  
P.O. Box 621  
Honolulu, Hawai'i 96809

Dear Ms. Nishioka:

**SUBJECT: STATE WATER COMMISSION'S PROPOSED**  
**DESIGNATION OF IAO AQUIFER**

As you are well aware, on or about November 14, 2001, the State Water Commission on Resource Management (hereinafter "Commission") conducted a meeting in Wailuku, Maui, Hawai'i, regarding the proposed designation of the Iao Aquifer. The Commission decided to continue the proceedings regarding designation.

According to my Executive Assistant, Jock Yamaguchi, the Commission is tentatively planning a public hearing on January 9, 2002, with a subsequent Commission meeting sometime at the end of January 2002 (The Commission must meet before February 12, 2002).

Mr. Yamaguchi, further informs me that if the Commission designates the Iao (and Waihee) Aquifer(s), all water use permits may have contested case hearings that can significantly affect the issuance of permits.

Therefore, given the importance of the designation issue and the potential for its tremendous impacts here in Maui County, I am attempting to include on the Maui County Council's agenda, an item which would allow the Council to take a position on this issue after hearing public testimony and after participating in full and meaningful discussion.

Ms. Linnell T. Nishioka, Deputy Director  
Department of Land and Natural Resources  
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Accordingly, to assist me in taking a position on this issue of designation, I am requesting the following information. Due to the time-sensitivity of this matter, may I respectfully ask that I receive your response no later than December 14, 2001.

QUESTIONS:

1. What is the legal effect of designation?
2. What effect(s) will designation have on the Maui County Council's land-use decision-making process?
3. Will designation affect any other County agency, commission, or department? And, if so, what will the effects be?
4. What effect has designation had upon other parts of the State, including Moloka'i?
5. What concerns have led the State Water Commission to consider designation?
6. What are the arguments for and against designation?
7. With respect to water-resource management, please specify the jurisdiction and/or responsibilities of the following commissions, agencies, and/or departments, both before and after designation.
  - (a) the State Commission on Water Resource Management;
  - (b) County of Maui Department of Water Supply;
  - (c) Maui County Board of Water Supply;
  - (d) Maui County Administrative branch, including the Mayor;
  - (e) Maui County Council;
  - (f) U.S. Geological Survey;
  - (g) Any other commission, agency or department that may have jurisdiction, but is not herein named.

Also, of the above-mentioned commissions, agencies, and/or departments, please specify which have legal authority over:

- (a) Ground water, on or from State, County, and private wells;

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Department of Land and Natural Resources  
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- (b) The distribution and/or allocation of ground water from State, County and privately owned wells;
  - (c) Issuing of any permits;
  - (d) Collecting of any and all relevant information, statistics, and data regarding ground water on or from State, County, and private wells.
  - (e) Who has authority over private wells that pump water from the Iao Aquifer, or that pump water that directly or indirectly impacts the Iao Aquifer?
8. Considering that most observers agree that more information is needed about Maui County's water resources (e.g. the effects of private pumping of wells), who is responsible for gathering, disseminating, and maintaining the necessary information, both before and after designation?
9. What can the Maui County Council do to ensure that the necessary information about Maui County's water resources is efficiently gathered, disseminated, and maintained?
10. As far as you know, does the State Water Commission have the resources, and funding to fully and completely fulfill its obligations and responsibilities regarding the Iao Aquifer, if said aquifer is designated?
11. Attached hereto is a copy of Chapter 2.90A, Regulations of Permits and Water Use, of the Maui County Code.
- (a) Can the Maui County Council amend Chapter 2.90A, to authorize the Maui County Council and Department of Water Supply, to better manage its water resources, prior to, or in lieu of, designation?
  - (b) If so, are there any suggestions on what legislative amendments could be made to allow Maui County better management of its water resources before taking the step towards designation and hence, State management?

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Department of Land and Natural Resources  
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Please do not hesitate to contact me at (808) 270-7760, or my Executive Assistant, Jock Yamaguchi, at (808) 280-3999 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dain Kane", with a stylized flourish at the end.

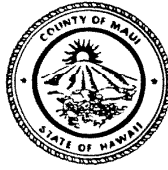
DAIN P. KANE  
Council Vice-Chair

DPK:jmy

Attachment

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JAMES "KIMO" APANA  
MAYOR



71 DEC 12 410:07

OFFICE OF THE MAYOR

Ke'ena O Ka Meia

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December 10, 2001

Ms. Linnel T. Nishioka  
Deputy Director  
Commission on Water Resource Management  
Department of Land and Natural Resources  
P. O. Box 621  
Honolulu, Hawaii 96809

Dear Ms. Nishioka:

Thank you very much for your correspondence of November 30, 2001 in which you inquire about the County's position regarding the pending petition for ground water management designation action on the Iao and Waihee Aquifer Systems. We understand that such a designation would essentially place the above-referenced aquifer systems under the jurisdiction and regulation of your honorable Commission.

I am writing for the purpose of respectfully expressing my objections to such a designation. The County's Board of Water Supply has the responsibility of accommodating for the infrastructural needs which are inherent in the delivery of water and the preservation of this vital resource. While the Board has undoubtedly faced some challenges in fully satisfying this mission over the years, I believe that inroads have been made which indicate progress in that regard.

Further, you should be aware that, pursuant to our County Charter, a Charter Commission has been convened for the purpose of assessing various amendments to the Charter which might be deemed appropriate for consideration on the ballot during our next election cycle. One of the proposals which we anticipate the Charter Commission recommending for ballot consideration is a possible alternative to the semi-autonomous status of our Board of Water Supply.

You are no doubt already aware that our Board of Water Supply currently enjoys a hybrid status which allows for autonomy in its daily operations, but requires the Mayor's and the Council's approval for changes to its rules or its rates. Some members of the public feel that this hybrid status has been an experiment which warrants assessment and possible change.

*Quality Seamless Service - Now and for the Future*



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Thus, there is every possibility that the Board of Water Supply may one day very soon become fully autonomous, or it may once again be brought under the full jurisdiction of the County administration. In either case, there lies an opportunity for addressing some of the challenges that have faced the Board in achieving its mission.

In short, I think that your honorable Commission needs to allow this community to manage its own resource. I reference the Charter Commission's work for the purpose of highlighting the fact that this community recognizes that there have been issues for the Board of Water Supply in the past, and that we are working to address and resolve these issues. We urge your Commission to give us the opportunity to do so. Designation of the Iao and Waihee Aquifers by your Commission would definitely be contrary to that end.

Thank you very much for your kind consideration of our thoughts. Should you have any questions of need for further information, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'J. Apana', with a stylized flourish at the end.

JAMES "KIMO" APANA  
Mayor, County of Maui

cc: Grant Y. M. Chun, Managing Director  
David Craddick, Water Director